

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**DEXTER D. STEWART,**

**Plaintiff,**

**vs.**

**CASEYVILLE POLICE DEPARTMENT  
and JAMES GOMERIC,**

**Defendants.**

**Case No. 21-cv-318-NJR**

**MEMORANDUM AND ORDER**

**ROSENSTENGEL, Chief Judge:**

Plaintiff Dexter D. Stewart, a pretrial detainee at the St. Clair County Jail, brings this action for deprivations of his constitutional rights pursuant to 42 U.S.C. § 1983.

This case is now before the Court for preliminary review of the Complaint pursuant to 28 U.S.C. § 1915A. Under Section 1915A, the Court is required to screen prisoner complaints to filter out non-meritorious claims. *See* 28 U.S.C. § 1915A(a). Any portion of a complaint that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law is immune from such relief must be dismissed. 28 U.S.C. § 1915A(b).

Stewart lists the Caseyville Police Department and James Gomic [sic] as defendants but fails to include any allegations against either defendant. In fact, the parts of his form Complaint marked “Statement of Claim” and “Request for Relief” are blank (Doc. 1, pp. 6-7). There are no allegations to suggest that either defendant violated Stewart’s constitutional rights. A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief,”

Fed. R. Civ. P. 8(a), in order to “give defendants fair notice of the claims against them and the grounds for supporting the claims.” *Stanard v. Nygren*, 658 F.3d 792, 797 (7th Cir. 2011) (citing *Killingsworth v. HSBC Bank Nev., N.A.*, 507 F.3d 614, 618 (7th Cir. 2007); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). A successful Complaint generally alleges “the who, what, when, where, and how...” See *DiLeo v. Ernst & Young*, 901 F.2d 624, 627 (7th Cir. 1990). Thus, if Stewart wants to pursue his claims, he must file an amended complaint. The amended complaint should identify *who* violated Stewart’s constitutional rights by name, include a description of *how* his rights were violated, and disclose *when* that violation took place.

### **Pending Motions**

As to Stewart’s motion for counsel (Doc. 3), he states that he has contacted several attorneys. Given the early stage of the litigation, however, it is difficult to accurately evaluate the need for the assistance of counsel. See *Kadamovas v. Stevens*, 706 F.3d 843, 845 (7th Cir. 2013) (“[U]ntil the defendants respond to the complaint, the plaintiff’s need for assistance of counsel ... cannot be gauged.”).<sup>1</sup> Further, counsel is not needed at this time because the Court finds Stewart capable of submitting an Amended Complaint on his own. Thus, Stewart’s motion for counsel is **DENIED** without prejudice. He may renew his request for the recruitment of counsel at a later date.

### **Disposition**

Accordingly, Stewart’s Complaint is **DISMISSED without prejudice** for failure to state a claim.

---

<sup>1</sup> In evaluating the motion for counsel, the Court applies the factors discussed in *Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007), and related authority.

Stewart is **GRANTED** leave to file a “First Amended Complaint” on or before **April 23, 2021**. Should he fail to file his First Amended Complaint within the allotted time or consistent with the instructions set forth in this Order, the entire case shall be dismissed with prejudice for failure to comply with a court order and/or for failure to prosecute his claims. Fed. R. App. P. 41(b). *See generally* *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994); 28 U.S.C. § 1915(e)(2).

An amended complaint supersedes and replaces the original complaint, rendering the original complaint void. *See Flannery v. Recording Indus. Ass’n of Am.*, 354 F.3d 632, 638 n. 1 (7th Cir. 2004). The Court will not accept piecemeal amendments to the original Complaint. Thus, the First Amended Complaint must stand on its own, without reference to any previous pleading, and Stewart must re-file any exhibits he wishes the Court to consider along with the First Amended Complaint. The First Amended Complaint is subject to review pursuant to 28 U.S.C. § 1915A.

Stewart is further **ADVISED** that his obligation to pay the filing fee for this action was incurred at the time the action was filed, thus the filing fee remains due and payable, regardless of whether he elects to file a First Amended Complaint. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

Finally, Stewart is **ADVISED** that he is under a continuing obligation to keep the Clerk of Court and each opposing party informed of any change in his address; the Court will not independently investigate his whereabouts. This shall be done in writing and not later than **7 days** after a transfer or other change in address occurs. Failure to comply with this Order will cause a delay in the transmission of court documents and may result in dismissal of this action for want of prosecution. *See* Fed. R. Civ. P. 41(b).

The Clerk is **DIRECTED** to mail Stewart a blank civil rights complaint form for use in preparing the First Amended Complaint.

**IT IS SO ORDERED.**

**DATED: 3/26/2021**

The image shows a handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style. Behind the signature, there is a faint, circular official seal of the United States District Court for the District of New Jersey.

---

**NANCY J. ROSENSTENGEL**  
**Chief U.S. District Judge**